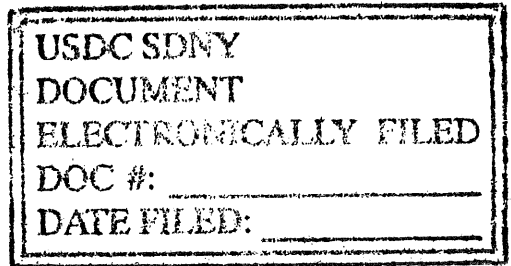


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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CHRISTINA ALFANDARY, JEFFREY HANSEN, :
LAURIE VICARI, TIMOTHY MCCARTHY, :
BILL WILDER, FREDERICK REIDENBACH, :
AND GREGORY ATKINSON, :

Plaintiffs, :

-against- :

NIKKO ASSET MANAGEMENT, CO., LTD., :
TAKUMI SHIBATA, SUMITOMO MITSUI :
TRUST BANK, LIMITED, AND SUMITOMO :
MITSUI TRUST HOLDINGS, INC., :

Defendants. :

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LORETTA A. PRESKA, Senior United States District Judge:

On December 14, 2018, Defendants moved to dismiss Plaintiffs' Amended Complaint under Rule 12(b)(6) [dkt. no. 64]. The Court issued an initial ruling on that motion on September 30, 2019, dismissing Plaintiffs' federal securities fraud claims and holding that the Court would exercise supplemental jurisdiction over Plaintiffs' common law claims, but the Court deferred ruling on those claims until the parties advised the Court on how they proposed to proceed with the case [dkt. no. 79].

By letters dated October 15, 2019, the parties indicated that they intended to continue litigating in federal court and asked the Court to resolve Defendants'

pending 12(b)(6) dismissal motion as to Plaintiffs' common law claims [dkt. nos. 81, 82]. On October 31, 2019, the Court ordered the parties to submit supplemental briefs on how the Court's initial 12(b)(6) order affected Plaintiffs' remaining common law claims [dkt. no. 83].

Having considered the parties' initial briefing and supplemental submissions, the Court concludes that only Plaintiffs' breach of contract claims may move forward and that all other claims are dismissed. Plaintiffs' request for leave to amend their fraud claims is granted. Plaintiffs shall file an amended pleading within 30 days of entry of this order. The Court will set forth the basis for its decision on the common law claims in a forthcoming memorandum but advises the parties to tailor their presentation at the November 26, 2019 conference with the Court's decision in mind.

SO ORDERED.

Dated: New York, New York
November 25, 2019



LORETTA A. PRESKA
Senior United States District Judge